

### **REMARKS**

Claims 1-15 are all the claims presently pending in the application.

It is noted that the claim amendments are made only for more particularly pointing out the invention, and not for distinguishing the invention over the prior art, narrowing the claims or for any statutory requirements of patentability. Further, Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claim 15 stands rejected under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter. Claim 14 stands rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 5,953,050 to Kamata et al. Claims 1, 2, and 15 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over US Patent Application Publication No. 2004/0162877 to Van Dok et al, further in view of US Patent Application Publication No. 2004/0161090 to Digate et al. Claims 3-7, 9, and 10 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Van Dok/Digate, further yet in view of Kamata. Claims 8 and 11 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Van Dok/Digate, further yet in view of US Patent No 6,018,346. Claims 12 and 13 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Kamata, further in view of Digate.

These rejections are respectfully traversed in the following discussion.

#### **I. THE CLAIMED INVENTION**

As described in, for example, independent claim 1, the claimed invention is directed to a method of providing a composite data feed for an online meeting. The method comprises at least one of providing a capability for at least one participant node in the online meeting to input a layout rule for a customized composite image of the online meeting to be seen specifically at the at least one participant node, and receiving a layout rule defining a composite image of the online meeting that can be customized for at least one participant node in the online meeting.

As described beginning at line 18 of page 1, the conventional methods lack an effective mechanism that takes the audio and video feeds from the multiple users of an online meeting, combines them and returns a composite image to each participant, where each participant potentially can specify their own composite layout arrangement rules.

The claimed invention, on the other hand, provides a customized composite image of an online meeting.

## II. THE 35 USC §101 REJECTION

Claim 15 stands rejected under 35 U.S.C. §101 as allegedly directed toward non-statutory subject matter. As best understood, the Examiner considers that a “signal bearing medium tangibly embodying a program of machine-readable instructions executable by a digital processing apparatus to perform a method of providing composite data feed for an online meeting” somehow “includes a form of energy.”

In response, Applicants submit that the plain meaning of this claim language requires that a program of machine-readable instructions be tangibly embodied by the signal bearing medium. This language, therefore, clearly covers “Beauregard-type” claims directed to standalone diskettes or other computer storage media containing a set of instructions to execute the method of the present invention. Applicants also submit that this language also reasonably covers a set of instructions stored in a hard drive awaiting execution, as well as a set of instructions stored in a RAM, as being currently executed by a computer.

The Examiner’s interpretation seems to derive from the description on page 24 of the specification: “... *or other suitable signal-bearing media including transmission media such as digital and analog and communication links and wireless.*” However, this description does not describe these signal-bearing media as “tangibly embodying a program of machine-readable instructions.” To the extent that “transmission media” includes servers or other storage devices, the claim language clearly applies to these devices.

To the extent that the “transmission media” of the claim language is interpreted as a signal in transmission, as the Examiner seems to do, Applicants submit that the question is whether such signals reasonably “tangibly embody a program of machine-readable instructions”, as the Examiner seems to presume. To the extent that such signals are ultimately legally declared in a case holding as tangibly embodying computer-readable instructions, then the language clearly would be directed to statutory subject matter, since the claim language is actually directed, not to a signal or to energy, as the Examiner seemingly alleges, but to the definition of a process, which is one of the four categories specifically listed in 35 USC § 101.

Therefore, to the extent that this language is construed as directed toward a “signal”, as the Examiner seems to do, and signals are ultimately deemed as not tangibly embodying

machine-readable instructions, then this claim clearly simply does not cover these signals, since these signals would not satisfy the plain meaning of the claim language requiring that the instructions be “tangibly embodied” by this medium.

Applicants submit that the closest case law to date would appear to be the recent holding in *In re Nuijten*, 500 F.3d 1346 (Fed. Cir. 2007). However, this holding is directed to a claim directed to a signal, *per se*. In contrast, the present claim 15 is clearly not directed to a signal, *per se*, and, to the extent that it is interpreted as including a transmission, the claim wording clearly indicates that the transmission defines a process, rather than a product-by-process, as was held to be characteristic of the watermark in *Nuijten*. Therefore, the wording of claim 15 is clearly distinguished from the facts underlying the holding of *Nuijten*.

Along this line, it is brought to the Examiner’s attention that, in the recent technology of wireless, it is very conceivable that a device will control a computer executing the process of the present invention by transmitting the instructions to the computer in real time, using wireless transmission. Since the claim is clearly worded to protect the process, such transmission would clearly infringe this claimed process regardless of whether “energy” is involved, contrary to the Examiner’s reasoning. Applicants have the right to protect this defined process even if a transmission is involved, particularly if the instructions are “tangibly embodied” by the transmission, as required by the claim language.

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw this rejection.

### **III. THE PRIOR ART REJECTIONS**

The Examiner alleges that Kamata teaches the claimed invention described by claim 14 and, when further modified by Digate, renders obvious claims 12 and 13. The Examiner also alleges that Van Dok, when modified by Digate, renders obvious claims 1, 2, and 15, and, when further modified by Kamata, renders obvious claims 3-7, 9, and 10, and, when further modified by Moran, renders obvious claims 8 and 11.

Applicant submits, however, that there are elements of the claimed invention which are neither taught nor suggested by Kamata or Van Dok, even if modified by the prior art currently of record.

#### The Rejections Based on Kamata

More particularly, relative to the rejections based on Kamata, this reference fails to teach or suggest the capability: “...wherein at least one of a size and a layout of subpanes of

*the composite image are controlled by user-specified rules*", as required by claim 14.

Kamata teaches only that its users are able to "select" particular *predefined* pane sizes and positions; they are not able to specify these sizes and positions - via rules - by themselves. Further, Kamata only provides two sizes and a predefined array of positions; a user cannot specify their own preferences via rules as in our invention. Therefore, claim 14 is clearly patentable over Kamata.

Relative to the rejection for claims 12 and 13, secondary reference Digate has nothing to do with layout rules. That is, the rules from Digate et al. describe how information is to be delivered (e.g., IM), not how it is to be displayed. There is no description whatsoever regarding layout, thus, it would not be obvious to generalize Kamata to cover layout, based on secondary reference Digate.

Therefore, even if secondary reference Digate were to be incorporated into primary reference Kamata, the combination would not provide all the elements of these claims.

Therefore, there are clearly elements of the claimed invention that are not present in Kamata.

#### The Rejections Based on Van Dok

Relative to the rejection for claims 1, 2, and 15, Applicants submit that "composite" is defined differently in Van Dok from the meaning in the present application. Van Dok allows a user to reformat the text(and graphic images like :- ) presented in an interleaved composite image. No facility is given for specifying how to display feeds in separate subpanes. That is, all of one user's input in a 2" x 2" window, located in the top left hand corner of the overall composite image; with all of the second user's input displayed in smaller window, located in the bottom right.

Further, the rules from Digate et al. describe how information is to be delivered (e.g., IM), not how it is to be displayed. There is no description whatsoever regarding layout, thus, it would not be obvious to generalize Van Dok to cover layout, based on secondary reference Digate.

Therefore, even if secondary reference Digate were to be incorporated into primary reference Van Dok, the combination would not provide all the elements of these claims.

Moreover, relative to the rejection for claim 2, the conditions shown in Figure 9 of Digate are not "layout rules", as described in the specification, for example, at lines 7-8 of page 9, referring to layout rules in the subsequent discussion for Figures 8 through 11.

Relative to the rejection for claims 3-7, 9, and 10, Van Dok et al. do not provide a

way to control subpane layout, only interleaved content formatting. Further (re: page 10) Kamata et al. allow a user to "select", but nowhere are any sort of "layout based rules" described, either in the abstract, or column 2, ,lines 31-41; only selection from a predefined of size and location choices. Thus it would not have been obvious.to generalize Kamata et al. to cover a method which does include the specification of layout rules.

Relative to the rejection for claim 4, Van Dok et al. Fig 6a 604 is an input field, not a display window showing a feed from one ore more remote users; AND the size of this pane is not controlled by a rule, since the rules of Van Dok et al. concern delivery, not display layout.

Relative to the rejection for claim 7, the information shown in Figure 4 of Kamata makes no suggestion of a calculation of layout rules.

Relative to the rejection for claim 8, the information shown in Figure 4 of Digate makes no suggestion of a periodic checking of layout rules.

Relative to the rejection for claim 9, the cited text from Van Dok et al. does not cover the case where the number of text or video feeds is a used as a parameter.

Relative to the rejections for claim 11, as explained above for claim 1, the term "composite" is defined differently in Van Dok from the meaning in the present application. Van Dok allows a user to reformat the text(and graphic images like :- ) presented in an interleaved composite image. No facility is given for specifying how to display feeds in separate subpanes, and secondary reference Digate describes, at most, how information is to be delivered (e.g., IM), not how it is to be displayed. There is no description whatsoever regarding layout, so that Digate does not overcome this fundamental deficiency of primary reference Van Dok.

Therefore, Applicant submits that there are elements of the claimed invention that are not taught or suggested by Van Dok, and the Examiner is respectfully requested to withdraw these rejections.

#### **IV. FORMAL MATTERS AND CONCLUSION**

In view of the foregoing, Applicant submits that claims 1-15, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance,

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the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee's Deposit Account No. 50-0510.

Respectfully Submitted,



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Frederick E. Cooperrider  
Registration No. 36,769

**McGinn Intellectual Property Law Group, PLLC**  
8321 Old Courthouse Road, Suite 200  
Vienna, VA 22182-3817  
(703) 761-4100  
**Customer No. 21254**